

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #14	CCRB Case #: 201507726	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/25/2015 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 2/25/2017	EO SOL 2/25/2017	
Date/Time CV Reported Fri, 09/11/2015 1:15 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/11/2015 1:15 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 James White	07439	929351	WARRSEC
2. DT3 Michael Greaney	7490	947762	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Cornelius Oshea	741	935419	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 James White	Abuse: Det. James White refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
B.DT3 Michael Greaney	Abuse: Det. Michael Greaney refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
C.DT3 Michael Greaney	Discourtesy: Det. Michael Greaney spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D.DT3 James White	Abuse: Det. James White entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
E.DT3 Michael Greaney	Abuse: Det. Michael Greaney entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
F.DT3 Michael Greaney	Abuse: Det. Michael Greaney damaged § 87(2)(b) Lampkins' property.	§ 87(2)(b)

### Case Summary

On September 11, 2015, § 87(2)(b) filed the following complaint by phone with the CCRB.

On August 25, 2015, at approximately 6 a.m., Det. James White and Det. Michael Greaney of the Bronx Warrants Squad went to § 87(2)(b) in the Bronx in search of § 87(2)(b). Det. White had an active warrant and three I-cards issued for § 87(2)(b). The apartment's owner, § 87(2)(b) was at work at the time. § 87(2)(b) mother, § 87(2)(b) was renting the apartment's living room along with her fiancé § 87(2)(b) § 87(2)(b) brother, § 87(2)(b) also rented a bedroom in the apartment. § 87(2)(b) allowed the officers to enter the apartment, and she and § 87(2)(b) allowed the officers to search all the open rooms. However, § 87(2)(b) bedroom was locked. The officers insisted that they must search inside the locked room, and § 87(2)(b) and § 87(2)(b) insisted that they could not enter the room. During the ensuing argument, Det. Greaney and Det. White allegedly refused to provide their names and shield numbers to § 87(2)(b) (**Allegations A and B**). Det. Greaney also allegedly told § 87(2)(b) "Get the fuck out the way" (**Allegation C**). Det. Greaney broke open the door to the bedroom, damaging the doorknob and lock, and the officers entered the bedroom (**Allegations D, E, and F**). There were no individuals in the bedroom and the officers left.

The investigation did not obtain any video footage of the incident. § 87(2)(b) attempted to film part of the incident with his cellphone but was unsuccessful.

§ 87(2)(g) The investigation was delayed in part by the fact that the subject officers had to be scheduled multiple times before they were successfully notified by Bronx Warrants to appear at the CCRB for their interviews. The investigation also experienced delays in obtaining the relevant DD5s from Bronx Warrants; a request was sent on September 25, but never filled by the command. Ultimately the documents were provided by one of the subject officers when he appeared at the CCRB.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined the option of mediation.
- On December 9, 2015, the undersigned requested copy of any Notice of Claim filed with the NYC Comptroller's office. A copy of the response will be added to the case file upon receipt (BR01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
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### Civilian and Officer CCRB Histories

- § 87(2)(b) previously filed CCRB case § 87(2)(b)  
§ 87(2)(b)
- § 87(2)(b) was a victim in CCRB case § 87(2)(b)  
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§ 87(2)(b)

§ 87(2)(b)

- § 87(2)(b) has never been a complainant, victim, or witness in any previous CCRB cases (BR07).
- Det. Michael Greaney has been a member of the NYPD for seven years and has had 25 previous CCRB allegations involving ten cases with three substantiated allegations (see officer history):
  - In CCRB case #201017328, the Board substantiated allegations of frisk and search of person and recommended charges. The NYPD imposed a penalty of instructions for the frisk allegation and took no disciplinary action regarding the search of person allegation.
  - In CCRB case #201207978, the Board substantiated an allegation of force and recommended charges. The NYPD disposition and penalty are not noted in CTS.
  - In CCRB cases #201408590 and #201507253, premises entered/searched allegations were exonerated and unsubstantiated, respectively.
- Det. James White has been a member of the NYPD for 14 years and has had 14 previous CCRB allegations involving nine cases with two substantiated allegations (see officer history):
  - In CCRB case #200918902, the Board substantiated allegations of frisk and threat of arrest and recommended charges. The NYPD imposed a penalty of instructions.
  - In CCRB case #201507253, a premises entered/searched allegation was unsubstantiated.

### **Findings and Recommendations**

#### **Allegations not pleaded:**

- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)

#### **Recommendations:**

- **Allegation A—Abuse of Authority: Det. James White refused to provide his name and shield number to § 87(2)(b)**
- **Allegation B—Abuse of Authority: Det. Michael Greaney refused to provide his name and shield number to § 87(2)(b)**

In his phone statement, § 87(2)(b) alleged that he requested Det. White and Det.

Greaney's names and shield numbers before they left the apartment and they did not respond (BR08). During his in-person interview, he alleged that he requested their names and shield numbers before Det. Greaney entered the locked bedroom, and that he asked for Det. Greaney's name and shield number again before the officers left (BR09). In a phone statement, § 87(2)(b) recounted that § 87(2)(b) requested the officers' names and shield numbers before they broke open the door (BR10), but she did not provide sworn testimony. § 87(2)(b) did not spontaneously recount that § 87(2)(b) requested officers' names and shield numbers (BR11). Only when the investigator asked him directly did § 87(2)(b) recall hearing § 87(2)(b) make the request; however, he could not recall when § 87(2)(b) did so. He thought it could have been before the officers entered the apartment or before they left.

Det. White could not recall if § 87(2)(b) requested names or shield numbers before the forced entry, but did recall him making the request as the officers were leaving (BR12). Both he and Det. Greaney stated their names and shield numbers. Det. Greaney denied that anyone requested his name or shield number before he forced open the door, and could not recall if anyone requested his or Det. White's after the forced entry (BR13).

§ 87(2)(g)

§ 87(2)(g)

• **Allegation C—Discourtesy: Det. Michael Greaney spoke discourteously to** § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) did not make any discourtesy allegations in his phone statement. During his in-person interview, § 87(2)(b) described Det. Greaney as "verbally abusive" but did not independently allege that he used profanity during the incident. When the investigator asked specifically if any officer used profanity, § 87(2)(b) recounted that Det. Greaney said, "Get the fuck out the way!" Allegedly, Det. Greaney made the statement multiple times when § 87(2)(b) stood in front of the locked door.

§ 87(2)(b) did not make any discourtesy allegations in her first phone statement. During her second phone statement, after being asked if the officers used profanity, she said they were "talking profanity the whole time" (BR14). When asked to be more specific, she said that Det. Greaney told § 87(2)(b) to "get the fuck out the way." § 87(2)(b) recounted that he peeked out of the living room, saw § 87(2)(b) standing in front of the locked door, and heard an officer say, "Yo, get out the way." § 87(2)(b) did not see Det. Greaney make forced entry, but after hearing a slam he heard § 87(2)(b) say, "Yo, what the fuck you doing?"

Both officers denied that they used any profanity during the incident and both specifically denied making the alleged statement.

§ 87(2)(g)

§ 87(2)(g)

- **Allegation D—Abuse of Authority: Det. James White entered and searched § 87(2)(b) in the Bronx.**
- **Allegation E—Abuse of Authority: Det. Michael Greaney entered and searched § 87(2)(b) in the Bronx.**
- **Allegation F—Abuse of Authority: Det. Michael Greaney damaged § 87(2)(b) property.**

It is undisputed that § 87(2)(b) initially provided consent for Det. White and Det. Greaney to enter the apartment and search for § 87(2)(b) and that she and § 87(2)(b) later insisted that the officers could not enter § 87(2)(b) bedroom. It is also undisputed that Det. Greaney forced open a locked bedroom door in the apartment so that he and Det. White could search the room for § 87(2)(b).

Det. White was the investigating officer and had been assigned three I-cards for § 87(2)(b) (BR15). He also possessed an unrelated bench warrant for her issued in January 2015 (BR16). The warrant and I-cards all showed § 87(2)(b) address as § 87(2)(b), an address which Det. White learned § 87(2)(b) had shared with § 87(2)(b). Det. White visited that address, and another address on Crotona Avenue, on August 19 (BR17). He also visited an address that was associated with § 87(2)(b) father and § 87(2)(b) boyfriend, § 87(2)(b) who had posted bail for § 87(2)(b) after her most recent arrest. Det. White also conducted four or five canvasses on Crotona Avenue and spoke to storeowners who recognized § 87(2)(b).

Det. White obtained the address at § 87(2)(b) through a search of Human Resources Administration records, which showed that § 87(2)(b) and § 87(2)(b) Medicaid benefits were coming to that address. A DD5 report created by Det. White shows that he received the HRA information on August 20, but does not note the specifics of the information received or that he received any information for § 87(2)(b) (BR18). Det. White also testified that he performed a TLO search, which showed that § 87(2)(b) was living at the address. This search is not specifically documented in the DD5 reports. Det. White denied that he ever learned the names of any other individuals who were associated with the address during his investigation and denied that he believed that anyone else lived at the address. At the time of the incident, Det. Greaney had no knowledge of Det. White's investigation except that § 87(2)(b) was being sought in relation to a robbery.

The officers arrived at the apartment at approximately 6 a.m. Det. White believed that § 87(2)(b) would be in the residence at the time because her HRA information indicated that she was unemployed and that time of the morning is "a very good time that someone would be home." Det. White knocked on the door and he soon saw that someone came to the door, looked through the peephole, and left. The individual did not say anything but Det. White could hear movement in the apartment. Det. White continued knocking and began saying, "Police Department." Det. White noted in the DD5 report regarding the incident that he knocked for more than ten minutes before the door was opened. Det. Greaney corroborated that it appeared that someone came to look through the peephole and that he could hear movement inside the apartment while Det. White knocked. He said Det. White knocked for approximately three minutes before § 87(2)(b) opened the door. In Det. White's experience, when an individual looks through the peephole and then walks away from the door, that person is "usually hiding someone." Similarly, Det. Greaney has learned that, when residents do not open the door right away, it is because "somebody's trying to hide or go out a window."

§ 87(2)(b) told Det. White that she had not seen § 87(2)(b) since July 24 and that the officers could search for her in the apartment. Det. White denied that § 87(2)(b) said the apartment did not belong to her or that the officers could only search in certain sections of the apartment. Det. Greaney corroborated that § 87(2)(b) consented to the officers

searching the entire apartment. Both officers described her as “very cooperative.” Both officers also said that § 87(2)(b) was similarly cooperative during their initial search.

Det. White and Det. Greaney both recounted that § 87(2)(b) and § 87(2)(b)'s demeanors changed dramatically when they insisted that they needed to search § 87(2)(b) bedroom. Det. White recounted that § 87(2)(b) said, “I don’t have access to that room,” while § 87(2)(b) said, “I don’t want you going in that room.” Det. Greaney recounted that they both said, “You can’t go in there. You can’t check that room,” and that § 87(2)(b) said, “Why are you here? You’re not supposed to be here. She doesn’t live here.” Det. White recounted that § 87(2)(b) became irate and began yelling that the officers could not enter the room because his apartment’s address was not written on the bench warrant for § 87(2)(b). § 87(2)(b) also threatened to call the CCRB. Det. White tried to reassure § 87(2)(b) that the officers were not looking for drugs or paraphernalia. Both officers denied that § 87(2)(b) ever said that the bedroom belonged to his sister or that he did not have the key for the door. Det. White denied that § 87(2)(b) ever blocked him or Det. Greaney from approaching the door, while Det. Greaney said that § 87(2)(b) was standing partially in front of the door. However, in his DD5 report, Det. White wrote that § 87(2)(b) “kept blocking” officers from entering the room.

Both officers said that § 87(2)(b) and § 87(2)(b)'s reactions to their desire to search § 87(2)(b) bedroom led them to believe that § 87(2)(b) was hiding inside. Det. White said that because § 87(2)(b) “went from very cooperative to very standoffish,” and because § 87(2)(b) was fine with the officers searching his bedroom but bristled at their desire to search the locked bedroom, he believed they were trying to hide § 87(2)(b). He said, “Between the time that someone came to the peephole, and now doesn’t come back to open the door, and now they’re letting us look around all over the place except behind this door is the reason it made me believe she was in there.” Similarly, Det. Greaney explained that in his experience, if the occupants of a residence do not want officers to search in one specific area, it is usually because the wanted individual is hiding in that area. Det. Greaney also feared that § 87(2)(b) might try to escape the locked room through a window, as the apartment was on the first floor. Det. Greaney could not tell if there was any noise emanating from inside the locked room because the situation in the apartment was very noisy.

Det. Greaney forced open the door with one or both hands. Both he and Det. White asserted that they are allowed to force open a door inside an apartment if they possess an active warrant. Det. White specifically explained that only a warrant, and not an I-card, conferred that authority, and that he and Det. Greaney would have left the apartment if he had only possessed the I-cards for § 87(2)(b). Det. Greaney and Det. White both denied that they ever observed any damage to the door, but both also said that they did not look at the door after Det. Greaney forced it open. Det. White conceded, however, that “there definitely could have been damage” to the door as the officers forced it open. Det. White did not note any damage in his DD5 report, Det. Greaney did not note any in his memo book, and neither officer prepared a “City-Involved” property damage report.

§ 87(2)(b) confirmed that after § 87(2)(b) opened the apartment door, the officers asked why she had taken so long to open the door and said they heard someone approach the door and stand at the peephole. § 87(2)(b) contended that he explained to the officers that the locked bedroom belonged to his sister, that he did not have the key, and that they could not enter it as it was her personal space. He also recounted that he offered to call § 87(2)(b) so the officers could speak to her but they declined. § 87(2)(b) said that she told the officers, when she opened the apartment door, that the apartment belonged to her sister and that they could only search her room. § 87(2)(b) also recounted that § 87(2)(b) told the officers that she rented a room in the apartment and the officers could search it, and that § 87(2)(b) told the officers that the apartment belonged to his sister. § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both alleged that Det. Greaney kicked the door to force it open. § 87(2)(b) did not see the entry but heard a “slam” when it happened. § 87(2)(b) provided two photographs of the damage to the door, which show that the lock and doorknob mechanism are broken (BR19-BR20).

An arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within. Payton v. New York, 445 U.S. 573 (1980) (BR21). An officer possessing an arrest warrant may only enter the suspect’s residence if he or she has a reasonable belief that the suspect is present at the time of the warrant execution. Proof that a suspect resides at a particular premises is insufficient to satisfy the separate requirement that officers must have reason to believe the suspect is within those premises at the time of an entry. The officer must have some modicum of concrete, believable information of recent vintage, pointing to the suspect’s presence at the time his or her home is searched. People v. Cabral, 147 Misc.2d 1000 (Sup. Ct. Kings Co., 1990) (BR22). Officers must give due respect to private property but may damage property if doing so is reasonably necessary to carry out their duties. Onderdonk v. New York, 170 Misc.2d 155 (Court of Claims, 1996) (BR23).

§ 87(2)(g)

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Squad: 14

Investigator: \_\_\_\_\_ Daniel Giansante \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date